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America, Inc.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AUDATEX NORTH AMERICA, INC.,)

Plaintiff,)

v.)

MITCHELL INTERNATIONAL, INC.,)

Defendant.)

Case No. 13cv1523-BEN (BLM)

JURY TRIAL DEMANDED

**DECLARATION OF PATRICK
MCGILL IN SUPPORT OF
PLAINTIFF AUDATEX NORTH
AMERICA, INC.'S MOTION TO
COMPEL DISCOVERY
REGARDING SOURCE CODE
AND DAMAGES**

1 I, Patrick McGill, declare that the following is true and correct:

2 1. I am a member of the law firm of Irell & Manella LLP, counsel of
3 record for Audatex North America, Inc. ("Audatex"). I am a member in good
4 standing of the State Bar of California. I have personal knowledge of the facts set
5 forth in this Declaration and, if called as a witness, I could and would testify to such
6 facts under oath. I make this declaration in support of Plaintiff Audatex North
7 America, Inc.'s Motion To Compel Discovery Regarding Source Code and
8 Damages.

9 2. Attached hereto as Exhibit A is a true and correct copy of Audatex's
10 Disclosure of Asserted Claims and Preliminary Infringement Contentions Under
11 Patent Local Rules 3.1 and 3.2, dated February 14, 2014.

12 3. Attached hereto as Exhibit B is a true and correct copy of pages 1-4 of
13 Audatex's Amended Disclosure of Asserted Claims and Preliminary Infringement
14 Contentions Under Patent Local Rules 3.1 and 3.2, dated July 24, 2014.¹

15 4. Attached hereto as Exhibit C is a true and correct copy of Mitchell's
16 Fifth Supplemental Response to Audatex's First Set of Interrogatories, dated August
17 6, 2014, which includes Mitchell's most recent response to Audatex's Interrogatory
18 No. 1.

19 5. Attached hereto as Exhibit D is a true and correct copy of Mitchell's
20 most recent response to Audatex's Interrogatory No. 8, excerpted from Mitchell's
21 Third Supplemental Responses to Audatex's First Set of Interrogatories, dated May
22 12, 2014.²

23 6. Attached hereto as Exhibit E is a true and correct copy of Mitchell's
24 Second Supplemental Response to Audatex's First Set of Interrogatories, dated May
25

26 ¹ The full version contains information Mitchell has designated as
27 confidential. However, a complete copy of the document can be provided to the
28 Court if deemed necessary.

² See footnote 1, above.

2, 2014, which includes Mitchell's most recent response to Audatex's Interrogatory No. 15.³

7. Attached hereto as Exhibit F is a true and correct copy of a letter from Patrick McGill to Mario Moore, Esq., counsel for Mitchell in this action, dated May 6, 2014.

8. Attached hereto as Exhibit G is a true and correct copy of email correspondence from David McPhie, Esq., to counsel for Mitchell, dated June 27, 2014.

9. Attached hereto as Exhibit H is a true and correct copy of a letter from Kamran Vakili, Esq., to Mario Moore, dated July 30, 2014.

10. Attached hereto as Exhibit I is a true and correct copy of Audatex's First Set of Requests for Production, dated February 4, 2014.

11. Attached hereto as Exhibit J is a true and correct copy of email correspondence from David McPhie to counsel for Mitchell, dated June 13, 2014.

12. Attached hereto as Exhibit K is a true and correct copy of email correspondence from Patrick McGill to counsel for Mitchell, dated May 19, 2014.

13. Attached hereto as Exhibit L is a true and correct copy of email correspondence from Mario Moore to Patrick McGill, dated May 14, 2014.

14. Attached hereto as Exhibit M is a true and correct copy of a Mitchell WorkCenter product suite brochure, produced by Mitchell in this litigation with the Bates number MITCHELL00015472.

15. As of the date of this declaration, Mitchell has refused to provided sales or any other financial data pertaining to the entire WorkCenter product suite.

³ While the interrogatory and supplemental response in Mitchell's Second Supplemental Response to Audatex's First Set of Interrogatories is labeled as "Interrogatory No. 1", the response in fact contains the text of Interrogatory No. 15, and is responsive to Interrogatory No. 15 (as indicated in the caption of the response).

1 Instead, Mitchell has only provided minimal and incomplete sales and financial data
2 as to the Total Loss module of the WorkCenter accused product.

3 16. During meet-and-confers held between the parties, counsel for Audatex
4 repeatedly stated to Mitchell's counsel that Audatex merely sought for Interrogatory
5 No. 8 a high-level guide or "roadmap" of how Mitchell's WorkCenter source code
6 works, with appropriate sections of the source code referenced in the response.

7
8 I declare under penalty of perjury under the laws of the State of California
9 that the foregoing is true and correct.

10 Executed this 15th day of August, 2014, at Newport Beach, California.

11
12 /s/ Patrick McGill

13 Patrick McGill
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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 840 Newport Center Drive, Suite 400, Newport Beach, California 92660-6324. I declare that I am a member of the bar of this Court.

On August 15, 2014, I served the foregoing document described as **DECLARATION OF PATRICK MCGILL IN SUPPORT OF PLAINTIFF AUDATEX NORTH AMERICA, INC.'S MOTION TO COMPEL DISCOVERY REGARDING SOURCE CODE AND DAMAGES** on each interested party, as follows:

☒ (BY E-FILE): I caused such documents to be transmitted by e-file with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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Attorneys for Defendant Mitchell International, Inc.

Executed on August 15, 2014, at Newport Beach, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

David B. Clark
(dclark@irell.com)

(Type or print name)

/s/ David B. Clark

(Signature)